

Department of Energy

§ 850.37

the responsible employer to return the worker to his or her former job status. Thereafter, the returned beryllium-associated worker must continue to be provided with medical surveillance under § 850.34 of this part.

(b) Medical removal protection benefits.

(1) If a beryllium-associated worker has been permanently removed from beryllium exposure pursuant to paragraph (a)(2) of this section, the responsible employer must provide the beryllium-associated worker:

(i) The opportunity to transfer to another position which is available, or later becomes available, for which the beryllium-associated worker is qualified (or for which the worker can be trained in a short period) and where beryllium exposures are as low as possible, but in no event at or above the action level; or

(ii) If the beryllium-associated worker cannot be transferred to a comparable job where beryllium exposures are below the action level, a maximum of 2 years of permanent medical removal protection benefits (specified in paragraph (b)(2) of this section).

(2) If required by this section to provide medical removal protection benefits, the responsible employer must maintain the removed worker's total normal earnings, seniority and other worker rights and benefits, as though the worker had not been removed.

(3) If a removed beryllium-associated worker files a claim for workers' compensation payments for a beryllium-related disability, then the responsible employer must continue to provide medical removal protection benefits pending disposition of the claim. The responsible employer must receive no credit for the workers' compensation payments received by the worker for treatment related expenses.

(4) The responsible employer's obligation to provide medical removal protection benefits to a removed beryllium-associated worker is reduced to the extent that the worker receives compensation for earnings lost during the period of removal either from a publicly- or employer-funded compensation program, or from employment with another employer made possible by virtue of the worker's removal.

(5) For the purposes of this section, the requirement that a responsible employer provide medical removal protection benefits is not intended to expand upon, restrict, or change any rights to a specific job classification or position under the terms of an applicable collective bargaining agreement.

(6) The responsible employer may condition the provision of medical removal protection benefits upon the beryllium-associated worker's participation in medical surveillance provided in accordance with § 850.34 of this part.

§ 850.36 Medical consent.

(a) The responsible employer must provide each beryllium-associated worker with a summary of the medical surveillance program established in § 850.34 at least one week before the first medical evaluation or procedure or at any time requested by the worker. This summary must include:

(1) The type of data that will be collected in the medical surveillance program;

(2) How the data will be collected and maintained;

(3) The purpose for which the data will be used; and

(4) A description of how confidential data will be protected.

(b) Responsible employers must also provide each beryllium-associated worker with information on the benefits and risks of the medical tests and examinations available to the worker at least one week prior to any such examination or test, and an opportunity to have the worker's questions answered.

(c) The responsible employer must have the SOMD obtain a beryllium-associated worker's signature on the informed consent form found in Appendix A to this part, before performing medical evaluations or any tests.

§ 850.37 Training and counseling.

(a) The responsible employer must develop and implement a beryllium training program and ensure participation for:

(1) Beryllium-associated workers;

(2) All other individuals who work at a site where beryllium activities are conducted.